

Remarks

Claims 1 is amended herein, claims 2-6 are cancelled, and claims 7-8 are withdrawn. Applicants reserve the right to pursue any cancelled or withdrawn subject matter in one or more continuation or divisional applications. Support for the amendment to claim 1 can be found throughout the specification and in claim 3 as originally filed. No new matter is added.

Rejection under 35 U.S.C. § 103(a):

The Examiner has rejected claims 1-6 under 35 U.S.C. § 103(a) as being unpatentable over Kreidstein et al., Canadian J. Phys. And Pharm., 70:1208-1216 (1992) or Davies et al., Ann. Plastic Surgery, 40:630-636 (1998) (claim 1) in view of Cederqvist et al., Biochem. Pharm., 47:1047-1053 (1994) (claims 2-3), in view of Stamler et al., U.S. Patent No. 5,770,645 (claims 4-5), and in view of Wang et al., J. Cardio. Pharm., 35:73-77 (2000) (claim 6). Claims 2-6 are cancelled. This rejection is therefore moot with respect to claims 2-6. Applicants traverse with respect to claim 1 as amended herein.

Amended claim 1 recites a method of preventing necrosis in a pedicle flap by topically applying ethyl nitrite to the pedicle flap. Applicants submit there is no objective reason provided by the any of the cited references, alone or in combination, that would lead the skilled artisan to use ethyl nitrite to prevent flap necrosis, nor is there any evidence that the skilled artisan reading the combination of these references would reach the present invention with predictable results. Moreover, the present invention provides superior properties not taught or suggested by the combination of references cited by the Examiner. Specifically, as shown in detail in the present specification at Example 1, topical application of ethyl nitrite to a vasoconstricted pedicle flap caused a greater restoration of blood flow and had a longer lasting effect on arterial dilation and blood flow as compared to the art recognized vasodilator, lidocaine (see Specification at page 7, lines 12-17). The cited references fail to provide the skilled artisan with any reasonable expectation that ethyl nitrite would have such superior properties over other vasodilators in preventing flap necrosis. As such, Applicants submit amended claim 1 is non-obvious over the cited references and request that this rejection be withdrawn.

APPLICANT: Stamler
SERIAL NUMBER: 10/521,394

Conclusion

Applicants respectfully submit that the pending claims are in condition for allowance. If there are any questions regarding these amendments and remarks, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,

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